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100TH CONGRESS
1st Session

SENATE

REPORT
100-90

TO PROVIDE FOR THE RESTORATION OF FEDERAL RECOGNITION TO THE YSLETA DEL SUR PUEBLO AND THE ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS, AND FOR OTHER PURPOSES

JUNE 26 (legislative day, JUNE 23), 1987.—Ordered to be printed

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Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany H.R. 318]

The Select Committee on Indian Affairs, to which was referred the bill (H.R. 318) to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

The amendment is an amendment in the nature of a substitute. The amendment is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act".

SEC. 2. REGULATIONS.

The Secretary of the Interior or his designated representative may promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE I—YSLETA DEL SUR PUEBLO RESTORATION

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) the term "tribe" means the Ysleta del Sur Pueblo (as so designated by section 102);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means lands within El Paso and Hudspeth Counties, Texas—

(A) held by the tribe on the date of the enactment of this title;

(B) held in trust by the State or by the Texas Indian Commission for the benefit of the tribe on such date;

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(C) held in trust for the benefit of the tribe by the Secretary under section 105(g)(2); and

(D) subsequently acquired and held in trust by the Secretary for the benefit of the tribe.

(4) the term "State" means the State of Texas;

(5) the term "Tribal Council" means the governing body of the tribe as recognized by the Texas Indian Commission on the date of enactment of this Act, and such tribal council's successors; and

(6) the term "Tiwa Indians Act" means the Act entitled "An Act relating to the Tiwa Indians of Texas." and approved April 12, 1968 (82 Stat. 93).

SEC. 102. REDESIGNATION OF TRIBE.

The Indians designated as the Tiwa Indians of Ysleta, Texas, by the Tiwa Indians Act shall, on and after the date of the enactment of this title, be known and designated as the Ysleta del Sur Pueblo. Any reference in any law, map, regulation, document, record, or other paper of the United States to the Tiwa Indians of Ysleta, Texas, shall be deemed to be a reference to the Ysleta del Sur Pueblo.

SEC. 103. RESTORATION OF THE FEDERAL TRUST RELATIONSHIP; FEDERAL SERVICES AND ASSISTANCE.

(a) FEDERAL TRUST RELATIONSHIP.—The Federal trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, statute, Executive order, agreement, or under any other authority of the United States which may have been diminished or lost under the Tiwa Indians Act are hereby restored.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

SEC. 104. STATE AND TRIBAL AUTHORITY.

(a) STATE AUTHORITY.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefiting the tribe, and the State is authorized to perform any services benefiting the tribe that are not inconsistent with the provisions of this Act.

(b) TRIBAL AUTHORITY.—The Tribal Council shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency, and

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement.

SEC. 105. PROVISIONS RELATING TO TRIBAL RESERVATION.

(a) FEDERAL RESERVATION ESTABLISHED.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) CONVEYANCE OF LAND BY STATE.—The Secretary shall—

(1) accept any offer from the State to convey title to any land within the reservation held in trust on the date of enactment of this Act by the State or by the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) CONVEYANCE OF LAND BY TRIBE.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any land within the reservation held by the tribe on the date of enactment of this Act to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) APPROVAL OF DEED BY ATTORNEY GENERAL.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument which conveys title to land within El Paso or Hudspeth Counties, Texas, to the United States to be held in trust by the Secretary for the benefit of the tribe.

(e) PERMANENT IMPROVEMENTS AUTHORIZED.—Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) CIVIL AND CRIMINAL JURISDICTION WITHIN RESERVATION.—The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes." and approved April 11, 1968 (25 U.S.C. 1321, 1322).

(g) ACQUISITION OF LAND BY THE TRIBE AFTER ENACTMENT.—

(1) Notwithstanding any other provision of law, the Tribal Council may, on behalf of the tribe—

(A) acquire land located within El Paso County, or Hudspeth County, Texas, after the date of enactment of this Act and take title to such land in fee simple, and

(B) lease, sell, or otherwise dispose of such land in the same manner in which a private person may do so under the laws of the State.

(2) At the written request of the Tribal Council, the Secretary may—

(A) accept conveyance to the Secretary by the Tribal Council (on behalf of the tribe) of title to any land located within El Paso County, or Hudspeth County, Texas, that is acquired by the Tribal Council in fee simple after the date of enactment of this Act, and

(B) hold such title, upon such conveyance by the Tribal Council, in trust for the benefit of the tribe.

SEC. 106. TIWA INDIANS ACT REPEALED.

The Tiwa Indians Act is hereby repealed.

SEC. 107. GAMING ACTIVITIES.

(a) IN GENERAL.—All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.-02-86 which was approved and certified on March 12, 1986.

(b) NO STATE REGULATORY JURISDICTION.—Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) JURISDICTION OVER ENFORCEMENT AGAINST MEMBERS.—Notwithstanding section 105(f), the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

SEC. 108. TRIBAL MEMBERSHIP.

(a) IN GENERAL.—The membership of the tribe shall consist of—

(1) the individuals listed on the Tribal Membership Roll approved by the tribe's Resolution No. TC-5-84 approved December 18, 1984, and approved by the Texas Indian Commission's Resolution No. TIC-85-005 adopted on January 16, 1985; and

(2) a descendant of an individual listed on that Roll if the descendant—

(i) has ⅛ degree or more of Tigua-Ysleta del Sur Pueblo Indian blood, and

(ii) is enrolled by the tribe.

(b) REMOVAL FROM TRIBAL ROLL.—Notwithstanding subsection (a)—

(1) the tribe may remove an individual from tribal membership if it determines that the individual's enrollment was improper; and

(2) the Secretary, in consultation with the tribe, may review the Tribal Membership Roll.

TITLE II—ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) the term "tribe" means the Alabama and Coushatta Indian Tribes of Texas (considered as one tribe in accordance with section 202);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means the Alabama and Coushatta Indian Reservation in Polk County, Texas, comprised of—

(A) the lands and other natural resources conveyed to the State of Texas by the Secretary pursuant to the provisions of section 1 of the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes." and approved August 23, 1954 (25 U.S.C. 721);

(B) the lands and other natural resources purchased for and deeded to the Alabama Indians in accordance with an act of the legislature of the State of Texas approved February 3, 1854; and

(C) lands subsequently acquired and held in trust by the Secretary for the benefit of the tribe;

(4) the term "State" means the State of Texas;

(5) the term "constitution and bylaws" means the constitution and bylaws of the tribe which were adopted on June 16, 1971; and

(6) the term "Tribal Council" means the governing body of the tribe under the constitution and bylaws.

SEC. 202. ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS CONSIDERED AS ONE TRIBE.

The Alabama and Coushatta Indian Tribes of Texas shall be considered as one tribal unit for purposes of this title and any other law or rule of law of the United States.

SEC. 203. RESTORATION OF THE FEDERAL TRUST RELATIONSHIP; FEDERAL SERVICES AND ASSISTANCE.

(a) FEDERAL TRUST RELATIONSHIP.—The Federal recognition of the tribe and of the trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, Executive order, agreement, statute, or under any other authority of the United States which may have been diminished or lost under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes" and approved August 23, 1954, are hereby restored and such Act shall not apply to the tribe or to members of the tribe after the date of the enactment of this title.

(c) FEDERAL BENEFITS AND SERVICES.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

SEC. 204. STATE AND TRIBAL AUTHORITY.

(a) STATE AUTHORITY.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefitting the tribe, and the State is authorized

to perform any services benefitting the tribe that are not inconsistent with the provisions of this Act.

(b) CURRENT CONSTITUTION AND BYLAWS TO REMAIN IN EFFECT.—Subject to the provisions of section 203(a) of this Act, the constitution and by laws of the tribe on file with the Committee on Interior and Insular Affairs is hereby declared to be approved for the purposes of section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476) except that all reference to the Texas Indian Commission shall be considered as reference to the Secretary of the Interior.

(c) AUTHORITY AND CAPACITY OF TRIBAL COUNCIL.—No provision contained in this title shall affect the power of the Tribal Council to take any action under the constitution and bylaws described in subsection (b). The Tribal Council shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency;

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement; and

(3) to bind any tribal governing body selected under any new constitution adopted in accordance with section 205 as the successor in interest to the Tribal Council.

SEC. 205. ADOPTION OF NEW CONSTITUTION AND BYLAWS.

Upon written request of the tribal council, the Secretary shall hold an election for the members of the tribe for the purpose of adopting a new constitution and bylaws in accordance with section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

SEC. 206. PROVISIONS RELATING TO TRIBAL RESERVATION.

(a) FEDERAL RESERVATION ESTABLISHED.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) CONVEYANCE OF LAND BY STATE.—The Secretary shall—

(1) accept any offer from the State to convey title to any lands held in trust by the State or the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) shall hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) CONVEYANCE OF LAND BY TRIBE.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any lands within the reservation which are held by the tribe to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) APPROVAL OF DEED BY ATTORNEY GENERAL.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument from the State or the tribe which conveys title to lands within the reservation to the United States.

(e) PERMANENT IMPROVEMENTS AUTHORIZED.—Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) CIVIL AND CRIMINAL JURISDICTION WITHIN RESERVATION.—The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" and approved April 11, 1968 (25 U.S.C. 1321, 1322).

SEC. 207. GAMING ACTIVITIES.

(a) IN GENERAL.—All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's

request in Tribal Resolution No. T.C.-86-07 which was approved and certified on March 10, 1986.

(b) NO STATE REGULATORY JURISDICTION.—Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) JURISDICTION OVER ENFORCEMENT AGAINST MEMBERS.—Notwithstanding section 206(f), the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

Amend the title so as to read:

> "An Act to provide for the restoration of the Federal trust relationship and Federal services and assistance to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes.".

PURPOSE

H.R. 318, was introduced in the House of Representatives on January 6, 1987, by Congressman Coleman of Texas. The purpose of H.R. 318 is to restore the Federal trust relationship to two Indian tribes located within the State of Texas. By the Act of August 23, 1954, the Federal trust reslationship with the Alabama and Coushatta Tribe was terminated by transferring federal trust duties and trust lands to the State of Texas. The lands so conveyed were to be held in trust by the State of Texas for the benefit of the tribes or their members. By the Act of April 12, 1968, legislation was enacted designating the descendants of the Tiwa Indians living in El Paso, Texas, of the Ysleta del Sur Pueblo, as Tiwa Indians of Ysleta, Texas, and provided that the responsibility, if any, of the United States for the said Indians was transferred to the State of Texas.

H.R. 318 will restore the Federal trust relationship to the Alabama and Coushatta Indian Tribes as one tribal unit for purposes of this Act, and provides for restoration of the Federal trust relationship between the United States and the Tiwa Indians, with the provisio that such Indian group shall henceforth be known as the Ysleta del Sur Pueblo. The bill also provides for taking of tribal or individually owned Indian lands into trust, and provides for expansion of the Indian land base in consultation with the State. The State shall exercise civil and criminal jurisdiction as if the State had assumed jurisdiction with the consent of the tribes under the provisions of the Indian Civil Rights Act of 1968 (25 U.S.C. 1321, 1322).

BACKGROUND

The Pueblo of Ysleta del Sur was established in 1680 following the Pueblo Indian revolt against the Spanish. The revolt forced the Spanish to retreat from Santa Fe to El Paso, and the Spanish forced a large number of Tiwa Indians from Ysleta Pueblo to accompany them. The Indians were settled at Ysleta del Sur and in 1682 the mission church was built, which still stands today. In 1751 Spain granted the land of Ysleta Pueblo to its inhabitants as communal property, measuring one league in all directions from the church doors.

On May 9, 1871, the Texas legislature passed an Act to incorporate the Town of Ysleta in El Paso County, and through ensuing actions of the newly created town, nearly all of the 23,000 acres of the Ysleta Spanish grant were patented to non-Indians. In May of 1967, the Texas legislature enacted legislation which authorized the State to accept a transfer of Federal trust responsibilities to the Tigua Indian Tribe. By the Act of April 12, 1968, Congress recognized the Tiwa people of the Ysleta del Sur Pueblo as a band of American Indians and transferred to the State of Texas any responsibility that the United States had for them. While the 1968 Tiwa Act specified that nothing in that Act would make the tribe eligible for federal Indian services nor would it make federal Indian statutes applicable to the tribe, it should be noted that the 1968 Tiwa Act was not a "termination" act. It was not enacted pursuant to the termination policy of the 1950s as set forth in House Concurrent Resolution No. 108. Rather, its purpose was to preserve the status quo between the tribe and the United States while clarifying the status of the Indians of the Ysleta del Sur Pueblo as a band of Indians recognized by the United States and thereby enabling the State of Texas to acquire land and provide services to them. The 1968 Tiwa Act thus did not, as a practical matter, alter the relationship between the United States and the Tiwa Tribe. The Tribe had not been subject to federal supervision and had received no federal Indian services before the 1968 Act, and that status continue after its enactment.

Texas now holds a 100-acre reservation in trust for the 1,124 member tribe and, through the Texas Indian Commission, provides a superintendant, as well as administrative and economic development funding for the tribe. A 1983 opinion of the Texas Attorney General (Opinion No. JM-17) which concluded that the tribe's trust relationship with the state violates the Equal Rights Amendment to the state constitution has cast doubt on the contiuation of this trust relationship between the State and tribe.

The Alabama-Coushattas are a state recognized tribe of approximately 500 full blood Indians residing on a 4,6000 acre reservation near Livingston, Texas. The State of Texas purchased roughly 1,200 acres of land in 1854 for a permanent home for the Alabama and Coushatta Indians (in part because of the tribes assistance to Sam Houston in Texas' war for independence) and since then the State has stood in the role of trustee to the tribes. A Federal trust relationship was etablished in 1928 when the United States purchased additional reservation lands for the tribe and, from 1928 to 1954, Texas and the United States maintained a joint trust responsibility for the tribe. The 1954 Act of Congress terminated the trust relationship of the United States with the tribe by transferring all federal trust duties and lands to the State of Texas. The trust relationship with the state has continued to the present.

LEGISLATIVE HISTORY

H.R. 318, as introduced by Congressman Coleman of Texas on January 6, 1987, was identical to the bill favorably reported in the 99th Congress by the Senate Select Committee on Indian Affairs. That bill, H.R. 1344, was not acted on by the Senate prior to the

adjournment of the 99th Congress and was introduced in the 100th Congress by Congressman Coleman. H.R. 318 was referred to the Committee on Interior and Insular Affairs for consideration. The bill was passed by the House and sent to the Senate on April 21, 1987.

H.R. 318 was referred to the Select Committee on Indian Affairs for consideration. Because the Committee had held hearings on H.R. 1344 on June 25, 1986 and had compiled an extensive record on the bill in the 99th Congress, further hearings were not held on H.R. 318.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session on June 17, 1987, with a quorum present, by unanimous vote recommends the Senate pass H.R. 318, as amended in the nature of a substitute.

COMMITTEE AMENDMENTS

The Committee recommends an amendment in the nature of a substitute. The amendments are in response to concerns raised by the State of Texas and Senators Gramm and Bentsen of Texas. In addition, the tribes have requested amendments to the bill to remove those concerns. Staff has worked closely with the Department of Interior and with the tribes which have resulted in a number of amendments, most of which are technical, clarifying, or conforming in nature; however, three of the amendments are substantial and merit explanation. Those three substantive amendments are explained in the "Explanation Amendments" section which follows.

EXPLANATION OF AMENDMENTS

Subsections 105(g), 105(h), 105(i) and 105(j), which directs the Secretary to establish a plan for an enlarged Ysleta del Sur Pueblo reservation and submit the plan to Congress in the form of proposed legislation within 2 years, is stricken from H.R. 318 as passed by the House of Representatives. A new subsection, 105(g), is added which permits the Ysleta del Sur Tribe to acquire additional land within El Paso or Hudspeth Counties in fee simple and permits the Secretary, upon the request of the Tribe, to accept and hold title to such lands in trust for the Tribe. Furthermore, if the additional after-acquired lands are not taken into trust by the Secretary, subsection 105(g) permits the Tribe to sell, lease or otherwise dispose of those land free of federal restrictions on alienation. It should be emphasized that the authorization to dispose of those lands free of federal restraints applies only to non-reservation, non-trust lands owned by the Tribe.

Sections 107 and 207 are stricken and new sections 107 and 207 are inserted. However, the central purpose of these two sections—to ban gaming on the reservations as a matter of federal law—remains unchanged. Both tribes, by formal tribal resolution, requested that this legislation incorporate their existing law and custom that forbids gambling. The Committee's amendments simply expand on the House version to provide that anyone who violates

the federal ban on gaming contained in Sections 107 and 207 will be subject to the same civil and criminal penalties that are provided under Texas law. New subsections 107(b) and 207(b) were added to make it clear that Congress does not intend, by banning gaming and adopting state penalties as federal penalties, to in any way grant civil or criminal regulatory jurisdiction to the State of Texas. New subsections 107(c) and 207(c) grant to the federal courts exclusive jurisdiction over offenses committed in violation of the federal gaming ban and make it clear that the State of Texas may seek injunctive relief in federal courts to enforce the gaming ban.

Section 108 was amended to address concerns raised by the Adminstration that after a period of years, the Pueblo could amend its membership criteria and thereby expand the tribal service population. Therefore, the ten-year period during which tribal membership criteria would be fixed by the Act as deleted. The effect of deleting the time period is to permanently lock in the Tribe's existing membership criteria. The Committee's willingness to accommodate the Administration on this issue is based upon the fact that the membership criteria contained in H.R. 318 are the Tribe's own pre-existing criteria and the Tribe has indicated to the Committee that it does not oppose the amendment. The Committee recognizes that Indian tribes possess the power to establish their own membership criteria. The Committee anticipates that if, at some time in the future, the Tribe determines that it must amend its membership criteria, it will petition Congress to permit it to do so.

SECTION-BY-SECTION ANALYSIS

Section 1. This section cites this Act as the "Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act."

Section 2. This section authorizes the Secretary of the Interior to promulgate regulations to implement the act.

Title I. Ysleta del Sur Pueblo Restoration

Section 101. This section defines certain terms for the purpose of this bill.

Section 102. This section states that following the date of enactment, the Tiwa Indians of Ysleta, Texas, shall be known as the Ysleta del Sur Pueblo.

Section 103. This section restores the Federal trust relationship to the Ysleta del Sur Pueblo as an Indian tribe and states that any rights of the tribe and its members which may have been lost under the Tiwa Indian Act are hereby restored. This section also makes all benefits available to Federally recognized Indian tribes available to the Ysleta del Sur Pueblo. This section further provides that nothing in this Act shall affect any property right or contractual obligation in existence before the enactment of this Act. This section further provides that the Act of June 18, 1934 shall apply to the tribe. This Committee does not intend, however, that the tribe be required to submit a constitution and bylaws to the Secretary for approval pursuant to section 16 of such Act and intends that the tribe may continue to operate under its present system if it chooses to do so.

Section 104. Subsection (a) provides that nothing in this section shall affect the power of the State of Texas to enact special legislation, and the State of Texas is authorized to perform any services that would benefit the Tribe that are not inconsistent with the provisions of this Act.

Section (b) provides that the Tribal Council shall represent the tribe in the implementation of this title and shall be legally entitled to enter into contracts and administer programs for the Tribe.

Section 105. Subsections (a), (b), and (c) provide that the reservation is hereby declared to be a Federal Indian reservation and also provides that the Secretary shall accept any offer by the State to convey title to any land within the reservation held in trust on the date of enactment of this Act by the State for the benefit of the tribe. The Secretary shall hold such land in trust for the benefit of the tribe.

Section (d) provides that the United States Attorney General shall approve any deed from the State or the tribe which conveys title to land within El Paso or Hudspeth Counties, Texas to the United States to be held in trust by the Secretary for the benefit of the tribe.

Section (e) provides that the Secretary shall be able to erect permanent improvements on the land notwithstanding the fact that title to such land has not been transferred to the Secretary by the State or the tribe.

Section (f) provides that the State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed jurisdiction with the consent of the tribe under the Act of April 11, 1968.

Subsection (g) provides that the tribe may acquire land in fee simple and authorizes the Secretary to accept such lands in trust if requested by the tribe. If such fee lands are not taken into trust, the tribe is authorized to convey any interest in those lands free of any federal restrictions on alienation.

Section 106. This section repeals the Tiwa Indian Act.

Section 107. This section provides that gambling, lottery or bingo as defined by the laws and administrative regulations of the State of Texas is prohibited on the tribe's reservation and on tribal lands. The provisions of Section 107 are also applicable to any lands acquired after the date of enactment of the Act and without regard to whether such lands are located within or outside of El Paso and Hudspeth Counties, Texas, if they are taken into trust by the Secretary and made part of the tribe's reservation. The prohibition contained in this section will also apply to any lands outside the reservation which might be acquired by the tribe or a member thereof and be taken into trust. With regard to tribal lands not taken into trust and therefore not made a part of the tribe's reservation, the laws and administrative regulations of the State of Texas related to gaming, gambling, lottery or bingo shall be applicable. This section also provides penalties for violations of these provisions which are the same as the penalties provided by Texas law. This section also provides that nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas. This provision is a restatement of the law as provided in the Act of August 15, 1953 (67 Stat. 588, P.L. 83-280),

as amended by the Act of April 11, 1968 (82 Stat. 77, P.L. 90-284), and should be read in the context of the provisions of Section 105(f). This section also provides that the Federal courts shall have exclusive jurisdiction over violations of the federal ban on gaming established by this section and further authorizes the State of Texas to seek injunctive relief in Federal court to enforce the federal ban on gaming.

Section 108. Provides that the tribe's membership shall consist of individuals listed on the Tribal Membership Roll approved by the tribe's Resolution No. TC-5-84 approved December 18, 1984, and approved by the Texas Indian Commission's Resolution No. TIC-85-005 adopted on January 16, 1985; and a descendant of an individual listed on that Roll if the said descendant (i) has ⅛ degree or more of Tigua-Ysleta del Sur Pueblo blood, and (ii) is enrolled by the tribe. Subsection (b) allows the tribe to remove an individual from tribal membership where such enrollment was improper. Subsection (b) further provides that the Secretary, in consultation with the tribe, may review the Tribal Membership Roll.

Title II: Alabama and Coushatta Indian Tribes of Texas

Section 201. Defines certain terms for the purposes of the Act.

Section 202. Provides that the Alabama and Coushatta Indian tribes shall be considered as one tribal unit for the purposes of this title and any other law.

Section 203. Provides that the Federal trust relationship is hereby restored to the tribe and all rights which may have been lost under the August 23, 1954 Act which terminated the tribe are hereby restored.

This section further provides that the tribe and its members shall be eligible to receive all benefits provided to federally recognized Indian tribes. This section also provides that except as provided by this Act, the enactment of this title shall affect any property or contractual rights in existence before the enactment of this title.

Section 204. Subsection (a) provides that nothing in this Act shall affect the power of the State of Texas to enact special legislation which would benefit the tribe. Furthermore, the State of Texas is authorized to perform any services for the benefit of the tribe that are not inconsistent with the provisions of this Act.

Subsection (b) provides that the current tribal constitution and bylaws of this tribe, on file with the Committee on Interior and Insular Affairs is hereby declared to have been approved pursuant to section 16 of the Act of June 18, 1934. In addition, all laws and rules of law, specifically, the Act of April 11, 1968 (82 Stat. 77) shall apply to members of the tribe, the tribe, and the reservation.

Subsection (c) provides that the provisions of this title shall not affect the powers of the Tribal Council. The Tribal Council shall represent the tribe in the implementation of this title and shall have the power to enter into contracts and administer tribal programs for the tribe.

Section 205. Provides that upon written request of the Tribal Council, the Secretary shall conduct an election in accordance with section 16 of the Act of June 18, 1934 for the purpose of adopting any new constitution and bylaws for the tribe.

Section 206. Provides that the reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary. The Secretary is directed to accept any offer from the State to convey title to any lands held in trust by the State. The Secretary shall hold such land in trust for the benefit of the tribe.

The Secretary is also directed to take any land in trust for the benefit of the tribe which is held by the tribe and located within the reservation.

This section also provides that the Attorney General of the United States shall approve any deed which conveys land from the State or the tribes to the United States.

Lastly, this section provides that the State of Texas shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such state had assumed jurisdiction with the consent of the tribe under the Act of April 11, 1968.

Section 207. This section provides that gaming, gambling, lottery and bingo as defined by the laws and administrative regulations of the State of Texas is prohibited on the tribe's reservation and on tribal lands. The provisions of Section 207 are also applicable to any lands acquired after the date of enactment of the Act and without regard to whether such lands are located within or outside of the reservation of Polk County, Texas, if it is taken into trust by the Secretary and made a part of the tribe's reservation. The prohibition contained in this section will also apply to any lands outside the reservation which might be acquired by the tribe or a member thereof and be taken into trust. With regard to tribal lands not taken into trust and therefore not made a part of the tribe's reservation, the laws and administrative regulations of the State of Texas related to gaming, gambling, lottery or bingo shall be applicable. This section also provides penalties for violation of these provisions which are the same as the penalties provided by Texas law. This section also provides that nothing in the section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas. This provision is a restatement of the law as provided in the Act of August 15, 1953 (67 Stat. 588, P.L. 83-280), as amended by the Act of April 11, 1968 (82 Stat. 77, P.L. 90-284), and should be read in the context of the provisions of Section 206(f). This section also provides that the Federal courts shall have exclusive jurisdiction over violations of the federal ban on gaming established by this section and further authorizes the State of Texas to seek injunctive relief in Federal court to enforce the federal ban on gaming.

The intent of the Act is to provide for the restoration of the Federal trust relationship and Federal services and assistance to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas. The headings and the subheadings have been changed to reflect this intent.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for H.R. 318, as amended in the nature of a substitute, as provided by the Congressional Budget Office, is set

forth below. Although the letter is dated May 15, 1987, the cost estimate remains the same as on the date the bill was ordered reported.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 1987.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 318, the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act, as amended and ordered reported by the Senate Select Committee on Indian Affairs, May 14, 1987.

This bill would grant federal recognition to the Ysleta del Sur and the Alabama and Coushatta Indian Tribes. Although the bill does not specifically authorize the appropriation of funds, it would make tribe members eligible for all services and benefits available to federally recognized Indian tribes. Thus, while no additional expenditures are mandated by the bill, relevant federal agencies would be required to include close to 2,000 tribe members among those eligible for benefits and may need to seek additional funds in order to provide such benefits. CBO estimates that the average annual cost of services and benefits provided nationally is about $3,000 per eligible Indian. However, the tribes are already eligible for and receiving some federal services and benefits, and added services resulting from federal recognition are likely to entail annual expenditures of less than $1 million.

On March 31, 1987, CBO completed a cost estimate of H.R. 318, as amended and reported by the House Committee on Interior and Insular Affairs. The estimated potential costs of both versions of the bill are the same.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that H.R. 318 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

At the time this report was prepared the Committee had not received Executive Communication on H.R. 318.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of tule XXIV of the Standing Rules of the Senate, it is the opinion of the Committee, that it is necessary to dispense with the requirements of this subsection to expedite the business of the Senate.

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